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JUDGE SCHEINDLIN

June 11, 2008

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VIA FACSIMILE

Judge Shira A. Scheindlin
United States District Court
Southern District of New York
500 Pearl Street, Room 1620
New York, NY 10007

RE: *National Tobacco Company, L.P. v. Timothy Parker, et al.*
Case No. 08-CV-03383

Dear Judge Scheindlin:

As you know, I represent the defendants in the matter captioned above. An initial pretrial conference has been scheduled before Your Honor for this Friday, June 13, 2008 at 4:30 p.m. I am writing to respectfully request a brief adjournment of this conference for the reasons more fully set forth below.

On May 30, defendants filed a motion to dismiss with the Court. Pursuant to the current briefing schedule, plaintiff's response to the motion to dismiss is due on June 19, 2008, defendants' reply is due on June 26, 2008 and the return date for the motion is July 11, 2008. Prior to the filing of the motion, we participated in the required Rule 16(f) telephonic conference with counsel for plaintiff and discussed matters including settlement, a proposed discovery plan and a proposed scheduling order. During this conference, we also expressly advised plaintiff's counsel of our intention to file the motion to dismiss. In light of the same, the parties discussed the appropriateness of possibly delaying the entry of a scheduling order and initiating specific discovery activity until the motion itself is resolved.

As the motion is now formally pending, and the briefing schedule is in place, the parties have again discussed issues including the immediate necessity for an initial pretrial conference prior to the resolution of the motion. We hereby respectfully request that the initial pretrial conference be briefly adjourned and that the possible subsequent entry of a scheduling order and discovery plan be briefly postponed until the pending motion to dismiss is resolved. Plaintiff's counsel does not object to this request. In the alternative, if Your Honor prefers to proceed with the pretrial conference on Friday, as I would be travelling to New York specifically to attend the conference, I respectfully request the ability to participate via telephone. Plaintiff's counsel also does not object to this request.

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Conference will take place no
later than 11:00 a.m. Defendant's
counsel may participate by phone.
So ordered. SBD
11/12/08

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Thank you and I apologize if this poses any inconvenience. Please feel free to contact me or plaintiff's counsel, Marcella Ballard, if you have any questions.

Sincerely,



David B. Sudzus

DBS/rг
cc: Marcella Ballard